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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/788,710

02/27/2004

George Cabrera

GA-6948

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7590

01/08/2008

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EXAMINER

CORRIELUS, JEAN B

ART UNIT

PAPER NUMBER

2611

MAIL DATE

DELIVERY MODE

01/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/788,710

Applicant(s)

CABRERA, GEORGE

Examiner

Jean B. Corrielus

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-14 is/are allowed.
- 6) ☒ Claim(s) 1, 8 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 2-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 December 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Applicant's response has overcome the outstanding claim objection.

### *Drawings*

2. The drawings were received on 12/26/07. These drawings are acceptable.

### *Response to Amendment*

3. The amendment to the claims filed on 12/26/07 with respect to claim 2 does not comply with the requirements of 37 CFR 1.121(c) because it fails to use underlining for limitations to be added and not <sup>to</sup> <sub>to</sub> underline existing limitations. Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c) which states:

(c) *Claims*. Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

(1) *Claim listing*. All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1–5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.

(2) *When claim text with markings is required*. All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of

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any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."

(3) *When claim text in clean version is required.* The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, *i.e.*, without any markings in the presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of "withdrawn" or "previously presented." Any claim added by amendment must be indicated with the status of "new" and presented in clean version, *i.e.*, without any underlining.

(4) *When claim text shall not be presented; canceling a claim.*

(i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not entered."

(ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as "canceled" will constitute an instruction to cancel the claim.

(5) *Reinstatement of previously canceled claim.* A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.

**Consequently, amendment to claim 2 has not been entered. The remaining amendment has been entered.**

4. The finality of the last office action is withdrawn in view the following new ground of rejection.

### ***Response to Arguments***

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5. Applicant's arguments, see page 14, last 5 lines, filed 12/26/07, with respect to the rejection(s) of claim(s) 1, 8, 15-20 under 103 rejection have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Plonka US Patent No. 6,166,774.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 8 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plonka US patent No. 5,757,854 in view of applicant's admitted prior art fig. 1.

Plonka teaches a method and apparatus fig. 5 comprising element 100 that inherently includes a splitter that receives and splitting an analog signal 14 for into a "visual signal" considered as the claimed "fractional portion" and "aural signal" considered as the claimed "remainder portion", see output of NTSC source 100; a combiner 120 (summer) for combining said "visual signal" (fractional portion) with a digital signal 112 to provide a first combined signal 122; and a combiner 124 see col. 4, lines 65 that combines said aural signal and said first combined signal to provide a composite RF signal 130 to be broadcasted by antenna 128. However, Plonka does not

explicitly teach that the NTSC signal is a FM signal, it also fails to teach a main FM transmitter for amplifying said second signal (remainder portion) to provide an amplified FM signal; a digital transmitter for amplifying said first combined signal to provide an amplified combined signal. However, applicant admitted prior art clearly teach prior a signal is combined by combiner C, a main FM transmitter 10 is used to provide an amplified FM signal; a digital transmitter 12 is used to provide an amplified combined signal. Given that fact, it would have been obvious to one skill in the art to incorporate such a teaching in Plonka in order to increase the output power so as to overcome the combiner insertion loss. See applicant's description pages 1-3 relating to the admitted prior art fig. 1. Furthermore, it is well know in the art to modulate a NTSC signal using frequency modulation. Given that fact, it would have been obvious to one skill in the art to modulate the NTSC signal using FM modulation in order to provide compatibility with existing radio receivers that may use frequency modulation so as to allow the original signal to be reconstructed.

As per claim 8, Plonka fails to teach that the digital signal is an IBOC digital signal. Applicant's admitted art however, fig. 1, teaches that the digital signal is an IBOC digital signal. Given that fact, it would have been obvious to one skill in the art to present the digital signal as an IBOC digital signal so as to provide compatibility with existing receiver that may use IBOC digital signal.

As per claim 15, see claim 1.

As per claim 16, see claim 1.

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As per claim 17, Plonka and applicant's admitted prior art does not explicitly teach the further step of adjusting the phase of the visual signal (fractional signal) however, it is well known in the art to adjust phase of a signal prior to being combined with another signal. Given that it would have been obvious to one skilled in the art to adjust the phase of the visual signal (fractional signal) so as to bring the visual signal in phase alignment with second signal so as to ensure that they are properly combined.

As per claim 18, it would have been obvious to one skilled in the art to manually adjust the phase of the first signal (fractional signal) and the motivation to do so would have been the same as provided above with respect to claim 17.

As per claim 19, see claim 8.

As per claim 20, see claim 17.


8. Claims 2-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 9-14 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is 571-272-3020. The examiner can normally be reached on Monday-Thursday from 9:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on 571-272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jean B Corrielus  
Primary Examiner  
Art Unit 2611  
1-7-08